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8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11 CONTINENTAL D.I.A. DIAMOND  
12 PRODUCTS, INC., a California corporation,

13 Plaintiff,

14 vs.

15 DONG YOUNG DIAMOND INDUSTRIAL  
16 CO., LTD., a South Korean company,  
17 DONGSOO LEE, an individual, and DOES 1-  
10, inclusive,

18 Defendants.  
19

20 AND RELATED COUNTERCLAIMS.  
21

Case No. CV 08-2136 SI

**STIPULATION AND [PROPOSED]  
ORDER DISMISSING DEFENDANTS'  
FIFTH AND SEVENTH CAUSES OF  
ACTION ASSERTED IN THEIR  
AMENDED COUNTERCLAIMS WITH  
PREJUDICE**

Judge: Honorable Susan Illston

Complaint Filed: April 24, 2008

Trial Date: February 16, 2010

22 Continental D.I.A. Diamond Products, Inc. ("Continental") and Dong Young Diamond  
23 Industrial Co., Ltd. and DongSoo Lee (collectively "Defendants"), by and through their undersigned  
24 counsel, hereby stipulate that the following counterclaims asserted by Defendants against  
25 Continental in their Amended Counterclaims (Dkt. No. 113) are hereby dismissed with prejudice:

26 1. The Fifth Cause of Action for Intentional Interference with Prospective Economic  
27 Advantage and Punitive Damages; and

28 2. The Seventh Cause of Action for Commercial Defamation.

1 Continental and Defendants further stipulate that Defendants will file a further amended  
2 counterclaim removing these causes of action and the allegations related thereto within ten (10)  
3 court days of the Court's entry of dismissal. Defendants will provide Continental with a proposed  
4 amended counterclaim for review before filing.

5 **IT IS SO STIPULATED BY THE PARTIES.**

6  
7 Dated: August 7, 2009

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO P.C.

8 /s/ Jeffrey M. Ratinoff

9 By: JEFFREY M. RATINOFF

10 Attorneys for Plaintiff and Counter-Defendant,  
11 Continental D.I.A. Diamond Products, Inc.

12 Dated: August 7, 2009

PRETI FLAHERTY BELIVEAU & PACHIOS, LLP

13 /s/ Alfred C. Frawley

14 By: ALFRED C. FRAWLEY

15 Attorneys for Defendants and Counterclaimants,  
16 Dong Young Diamond Industrial Co., Ltd., and DongSoo Lee

17 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

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20 Dated: \_\_\_\_\_

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22 THE HONORABLE SUSAN ILLSTON  
23 UNITED STATES DISTRICT COURT JUDGE